

SENATE BILL 1830

By Herron

AN ACT to amend Tennessee Code Annotated, Title 69,
Chapter 11, relative to dam safety.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Safe Dams Act of 2011".

SECTION 2. Tennessee Code Annotated, Section 69-11-102(3), is amended by
deleting the subdivision in its entirety and substituting instead the following:

(3)

(A) "Dam" means any artificial barrier, together with appurtenant works,
that does or may impound or divert water, and that either:

(i) Is or will be twenty feet (20') or more in height from the natural
bed of the stream or watercourse at the downstream toe of the barrier, as
determined by the commissioner; or

(ii) Has or will have an impounding capacity at maximum water
storage elevation of thirty (30) acre-feet or more.

(B) Any barrier described in subdivision (A) that is or will be less than six
feet (6') in height, regardless of storage capacity, or that has or will have a
maximum storage capacity not in excess of fifteen (15) acre-feet, regardless of
height, is not considered a "dam" if the improper operation or failure of such
barrier would not be expected to result in probable loss of human life as
determined by the commissioner pursuant to Section 3 of this act.

(C) Any barrier described in subdivision (A), regardless of size, is
not considered a "dam", if:

(i) In the judgment of the commissioner, such barrier creates an impoundment used only as a farm pond; and

(ii) The improper operation or failure of such barrier would not be expected to result in probable loss of human life, as determined by the commissioner pursuant to Section 3 of this act.

(D) "Diversion weirs," "roadbeds," "water tanks," and "wastewater impoundment barriers" as defined in this section are not "dams";

SECTION 3. Tennessee Code Annotated, Title 69, Chapter 11, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 69-11-1__.

(a) It shall be the duty of the commissioner to inventory the dams of this state and to determine whether the improper operation or failure of each dam that is identified by such inventory would be expected to result in the probable loss of human life. The determination that is required by this subsection (a) may be based upon either:

(1) An investigation conducted pursuant to subsection (c) of this section. The owner or operator of any dam for which such an investigation is conducted shall be responsible for reimbursing the department for the cost of such investigation; or

(2) A report issued by an engineer who is registered in this state that is obtained by the owner or operator of the dam at such owner's or operator's own expense.

(b) The first inventory shall be completed by July 1, 2012. The commissioner shall re-inventory the dams of this state at least once every five (5) years after the completion of the first inventory.

(c) The commissioner shall be authorized to direct and conduct investigations as the commissioner may reasonably deem necessary to carry out the commissioner's duties as prescribed in this section. For this purpose, the employees of the department or any authorized representatives of the department are authorized to enter at reasonable times on any property, public or private, for the purpose of inventorying and investigating any dam and to require written reports from the owner or operator of any dam for the purpose of accomplishing the department's duties under this section. If the owner of the dam is a resident of the county where the dam is located, the commissioner shall notify the owner before the department's employees or authorized representatives enter the property for the purposes authorized by this subsection (c).

SECTION 4. Tennessee Code Annotated, Section 69-11-112(b), is amended by adding the following language after the existing language:

The commissioner may utilize the determination of whether the improper operation or failure of a barrier would be expected to result in the probable loss of human life, which is required by Section 3 of this act, in the categorization of dams pursuant to this subsection.

SECTION 5. The commissioner of environment and conservation is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 6. This act shall take effect upon becoming a law for purposes of promulgating rules and regulations on July 1, 2011, for all other purposes, the public welfare requiring it.